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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13
14 **IN RE CAPACITORS ANTITRUST**
LITIGATION

15
16 **THIS DOCUMENT RELATES TO ALL**
17 **INDIRECT PURCHASER CLASS**
18 **ACTIONS**

MASTER FILE NO. 3:14-CV-03264-JD

WAIVER OF SERVICE OF SUMMONS
AND COMPLAINT AND STIPULATION
AND ~~[PROPOSED]~~ ORDER SETTING
RESPONSE DEADLINE FOR NITSUKO
ELECTRONICS CORPORATION

Pursuant to Civil Local Rule 6-2, Defendant Nitsuko Electronics Corporation (“Nitsuko”) and Indirect Purchaser Plaintiffs (“IPPs”) respectfully request that the Court enter the following stipulation setting and extending the time for Nitsuko to respond to the Indirect Purchaser Plaintiffs’ First Consolidated Complaint (“FCC”) (Dkt. 346).

I. FACTUAL BACKGROUND

In support of this stipulation, the undersigned parties provide the following facts:

1. The IPPs filed the FCC in this action on November 14, 2014. On November 26, 2014, IPPs sent a summons and the FCC by FedEx International Priority to Nitsuko Electronics Corp., 203-1-1, Ogawara, Suzaka-shi, Nagano-ken, 3820071. On December 1, 2014, M. Chiba signed for the delivery.

2. Certain other named Defendants have filed motions to dismiss the FCC (Dkt. Nos. 474-75) (collectively, “the Pending Motions to Dismiss”).

3. On March 11, 2015, the Court held a hearing regarding the Pending Motions to Dismiss. The Court has not yet entered an order regarding the Pending Motions to Dismiss.

4. Nitsuko is a Japanese company, headquartered in Japan and does not have offices or employees based in the United States.

5. Nitsuko first appeared in the Direct Purchaser action on March 23, 2015 (ECF No. 598). On that day, counsel for IPPs requested through counsel for Nitsuko that Nitsuko waive formal service of the summons and FCC in this action.

6. Nitsuko has not been formally served with the summons and FCC through Hague process.

7. Under Rule 4(d) of the Federal Rules of Civil Procedure, Nitsuko has 90 days from the date the request was sent to respond to the FCC, which is June 23, 2015.

8. Counsel for the IPPs and Nitsuko have discussed and agreed as follows:

a) Nitsuko has agreed to save the expense of serving a summons and copy of the FCC in this case.

b) Nitsuko shall maintain all defenses and/or objections to the lawsuit that it may have, the court’s jurisdiction, and the venue of the action, but agrees to waive any

objections to the absence of a summons or of service. Nitsuko's waiver is conditioned on the Court's entry of the proposed order setting the parties' agreed response time to the FCC.

c) Nitsuko's response to the FCC will be due after the Court rules on the Pending Motions to Dismiss. Specifically, Nitsuko's response to the FCC shall be filed on or before the later of:

- i. June 23, 2015, if the Court rules on the Pending Motions to Dismiss on or before June 12, 2015; or
- ii. 90 days from the date that the IPPs file a further amended complaint if the Court orders the IPPs to amend the FCC; or
- iii. on a date to be agreed by the parties in a future meet and confer if the Court does not rule on the Pending Motions to Dismiss on or before June 12, 2015.

9. The parties believe that the interests of judicial efficiency will be well-served by allowing Nitsuko to file its response to the FCC after the Court issues its order on the Pending Motions to Dismiss. Further, this schedule will avoid any duplicative motion practice while the Pending Motions to Dismiss are under submission to the Court.

10. The undersigned parties have not previously requested any time modifications in this action affecting Nitsuko, whether by stipulation or Court order. *See* Civil L.R. 6-2(a)(2).

II. STIPULATION

In light of these facts, the undersigned parties jointly request that the Court enter the following stipulation as an Order of the Court:

1. The deadline for Nitsuko to respond to the FCC is extended until after the Court enters an order regarding certain Defendants' Pending Motions to Dismiss. (Dkts. 474, 475).

2. Nitsuko's response to the FCC shall be filed on or before the later of:

- a) June 23, 2015, if the Court rules on the Pending Motions to Dismiss on or before June 12, 2015; or
- b) 90 days from the date that the IPPs file a further amended complaint if the Court orders the IPPs to amend the FCC; or

c) on a date to be agreed by the parties in a future meet and confer if the Court does not rule on the Pending Motions to Dismiss on or before June 12, 2015.

IT IS SO STIPULATED.

DATED: April 21, 2015

COTCHETT, PITRE & McCARTHY, LLP

By: /s/ Steven N. Williams
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DATED: April 21, 2015

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Pursuant to Civil Local Rule 5-1(i)(3), the filer attests that concurrence in the filing of this document has been obtained from each of the signatories.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: May 1, 2015



Hon. James Donato
United States District Judge